

# Union Calendar No. 117

111TH CONGRESS  
1ST SESSION

# H. R. 1665

[Report No. 111–215]

To structure Coast Guard acquisition processes and policies, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2009

Mr. CUMMINGS (for himself, Mr. OBERSTAR, Mr. MICA, and Mr. LOBIONDO)  
introduced the following bill; which was referred to the Committee on  
Transportation and Infrastructure

JULY 20, 2009

Committed to the Committee of the Whole House on the State of the Union  
and ordered to be printed

---

## A BILL

To structure Coast Guard acquisition processes and policies,  
and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**
- 4 (a) SHORT TITLE.—This Act may be cited as the
- 5 “Coast Guard Acquisition Reform Act of 2009”.

1 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents.  
 Sec. 2. Definitions.

TITLE I—RESTRICTIONS ON THE USE OF LEAD SYSTEMS  
 INTEGRATORS

- Sec. 101. Procurement structure.

TITLE II—COAST GUARD ACQUISITION POLICY

- Sec. 201. Operational requirements.  
 Sec. 202. Required contract terms.  
 Sec. 203. Life-cycle cost estimates.  
 Sec. 204. Test and evaluation.  
 Sec. 205. Capability standards.  
 Sec. 206. Acquisition program reports.  
 Sec. 207. Undefined contractual actions.  
 Sec. 208. Guidance on excessive pass-through charges.  
 Sec. 209. Acquisition of major capabilities: Alternatives analysis.  
 Sec. 210. Cost overruns and delays.  
 Sec. 211. Report on former Coast Guard officials employed by contractors to  
         the agency.  
 Sec. 212. Department of Defense consultation.

TITLE III—COAST GUARD PERSONNEL

- Sec. 301. Chief Acquisition Officer.  
 Sec. 302. Improvements in Coast Guard acquisition management.  
 Sec. 303. Recognition of Coast Guard personnel for excellence in acquisition.  
 Sec. 304. Enhanced status quo officer promotion system.  
 Sec. 305. Coast Guard acquisition workforce expedited hiring authority.

2 **SEC. 2. DEFINITIONS.**

3 In this Act, the following definitions apply:

4 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
 5 TEES.—The term “appropriate congressional com-  
 6 mittees” means the Committee on Transportation  
 7 and Infrastructure of the House of Representatives  
 8 and the Committee on Commerce, Science, and  
 9 Transportation of the Senate.

10 (2) COMMANDANT.—The term “Commandant”  
 11 means the Commandant of the Coast Guard.

1           (3) LEVEL 1 ACQUISITION.—The term “Level 1  
2 acquisition” means—

3           (A) an acquisition by the Coast Guard—

4                 (i) the estimated life-cycle costs of  
5 which exceed \$1,000,000,000; or

6                 (ii) the estimated total acquisition  
7 costs of which exceed \$300,000,000; or

8           (B) any acquisition that the Chief Acquisi-  
9 tion Officer of the Coast Guard determines to  
10 have a special interest—

11                 (i) due to—

12                         (I) the experimental or tech-  
13 nically immature nature of the asset;

14                         (II) the technological complexity  
15 of the asset;

16                         (III) the commitment of re-  
17 sources; or

18                         (IV) the nature of the capability  
19 or set of capabilities to be achieved; or

20                 (ii) because such acquisition is a joint  
21 acquisition.

22           (4) LEVEL 2 ACQUISITION.—The term “Level 2  
23 acquisition” means an acquisition by the Coast  
24 Guard—

1 (A) the estimated life-cycle costs of which  
 2 are equal to or less than \$1,000,000,000, but  
 3 greater than \$300,000,000; or

4 (B) the estimated total acquisition costs of  
 5 which are equal to or less than \$300,000,000,  
 6 but greater than \$100,000,000.

7 (5) LIFE-CYCLE COST.—The term “life-cycle  
 8 cost” means all costs for development, procurement,  
 9 construction, and operations and support for a par-  
 10 ticular capability or asset, without regard to funding  
 11 source or management control.

## 12 **TITLE I—RESTRICTIONS ON THE** 13 **USE OF LEAD SYSTEMS INTE-** 14 **GRATORS**

### 15 **SEC. 101. PROCUREMENT STRUCTURE.**

16 (a) IN GENERAL.—

17 (1) USE OF LEAD SYSTEMS INTEGRATOR.—Ex-  
 18 cept as provided in subsection (b), the Commandant  
 19 may not use a private sector entity as a lead systems  
 20 integrator for an acquisition contract awarded or de-  
 21 livery order or task order issued after the end of the  
 22 180-day period beginning on the date of enactment  
 23 of this Act.

24 (2) FULL AND OPEN COMPETITION.—The Com-  
 25 mandant and any lead systems integrator engaged

1 by the Coast Guard shall use full and open competi-  
2 tion for any acquisition contract awarded after the  
3 date of enactment of this Act, unless otherwise ex-  
4 cepted in accordance with Federal acquisition laws  
5 and regulations promulgated under those laws, in-  
6 cluding the Federal Acquisition Regulation.

7 (3) NO EFFECT ON SMALL BUSINESS ACT.—  
8 Nothing in this subsection shall be construed to su-  
9 persede or otherwise affect the authorities provided  
10 by and under the Small Business Act (15 U.S.C.  
11 631 et seq.).

12 (b) EXCEPTIONS.—

13 (1) NATIONAL DISTRESS AND RESPONSE SYS-  
14 TEM MODERNIZATION PROGRAM; NATIONAL SECU-  
15 RITY CUTTERS 2 AND 3.—Notwithstanding sub-  
16 sections (a) and (e), the Commandant may use a  
17 private sector entity as a lead systems integrator for  
18 the Coast Guard to complete the National Distress  
19 and Response System Modernization Program (oth-  
20 erwise known as the “Rescue 21” program) and Na-  
21 tional Security Cutters 2 and 3.

22 (2) COMPLETION OF ACQUISITION BY LEAD  
23 SYSTEMS INTEGRATOR.—Notwithstanding subsection  
24 (a), the Commandant may use a private sector enti-

1       ty as a lead systems integrator for the Coast  
2       Guard—

3               (A) to complete any delivery order or task  
4       order, including the exercise of previously estab-  
5       lished options on a delivery order or task order  
6       that was issued to a lead systems integrator on  
7       or before the date that is 180 days after the  
8       date of enactment of this Act without any  
9       change in the quantity of capabilities or assets  
10      or the specific type of capabilities or assets cov-  
11      ered by the order;

12              (B) for a contract awarded after the date  
13      that is 180 days after the date of enactment of  
14      this Act for acquisition of, or in support of, the  
15      HC-130J aircraft, the HH-65 aircraft, or the  
16      C4ISR system, if the requirements of sub-  
17      section (c) are met with respect to such acqui-  
18      sitions;

19              (C) for a contract awarded after the date  
20      that is 180 days after the date of enactment of  
21      this Act for acquisition of, or in support of,  
22      Maritime Patrol Aircraft, if the requirements of  
23      subsection (c) are met with respect to such an  
24      acquisition; and

1 (D) for the acquisition of, or in support of,  
2 additional National Security Cutters or Mari-  
3 time Patrol Aircraft, if the Commandant deter-  
4 mines that—

5 (i) the acquisition is in accordance  
6 with Federal acquisition laws and regula-  
7 tions promulgated under those laws, in-  
8 cluding the Federal Acquisition Regula-  
9 tion;

10 (ii) the acquisition and the use of a  
11 private sector entity as a lead systems inte-  
12 grator for the acquisition are in the best  
13 interest of the Federal Government; and

14 (iii) the requirements of subsection (c)  
15 are met with respect to such acquisition.

16 (3) REPORT ON DECISION-MAKING PROCESS.—

17 If the Commandant determines under subparagraph  
18 (B), (C), or (D) of subsection (b)(2) that the Coast  
19 Guard will use a private sector lead systems inte-  
20 grator for an acquisition, the Commandant shall no-  
21 tify in writing the appropriate congressional commit-  
22 tees of the Commandant's determination and shall  
23 provide a detailed rationale for the determination, at  
24 least 30 days before the award of a contract or  
25 issuance of a delivery order or task order, using a

1 private sector lead systems integrator, including a  
2 comparison of the cost of the acquisition through the  
3 private sector lead systems integrator with the ex-  
4 pected cost if the acquisition were awarded directly  
5 to the manufacturer or shipyard. For purposes of  
6 that comparison, the cost of award directly to a  
7 manufacturer or shipyard shall include the costs of  
8 Government contract management and oversight.

9 (c) LIMITATION ON LEAD SYSTEMS INTEGRATORS.—

10 Neither an entity performing lead systems integrator func-  
11 tions for a Coast Guard acquisition nor a Tier 1 subcon-  
12 tractor for any acquisition described in subparagraph (B),  
13 (C), or (D) of subsection (b)(2) may have a financial inter-  
14 est in a subcontractor below the Tier 1 subcontractor level  
15 unless—

16 (1) the subcontractor was selected by the prime  
17 contractor through full and open competition for  
18 such procurement;

19 (2) the procurement was awarded by the lead  
20 systems integrator or a subcontractor through full  
21 and open competition;

22 (3) the procurement was awarded by a subcon-  
23 tractor through a process over which the lead sys-  
24 tems integrator or a Tier 1 subcontractor exercised  
25 no control; or



1           (4) the Commandant has determined that the  
2       procurement was awarded in a manner consistent  
3       with Federal acquisition laws and regulations pro-  
4       mulgated under those laws, including the Federal  
5       Acquisition Regulation.

6       (d) RULE OF CONSTRUCTION.—The limitation in  
7       subsection (b)(1)(A) on the quantity and specific type of  
8       assets to which subsection (b) applies shall not be con-  
9       strued to apply to the modification of the number or type  
10      of any sub-systems or other components of a vessel or air-  
11      craft described in subparagraph (B), (C), or (D) of sub-  
12      section (b)(2).

13      (e) TERMINATION DATE FOR EXCEPTIONS.—Except  
14      as described in subsection (b)(1), the Commandant may  
15      not use a private sector entity as a lead systems integrator  
16      for acquisition contracts awarded, or task orders or deliv-  
17      ery orders issued, after the earlier of—

18           (1) September 30, 2011; or

19           (2) the date on which the Commandant certifies  
20      in writing to the appropriate congressional commit-  
21      tees that the Coast Guard has available and can re-  
22      tain sufficient acquisition workforce personnel and  
23      expertise within the Coast Guard, through an ar-  
24      rangement with other Federal agencies, or through  
25      contracts or other arrangements with private sector

1 entities, to perform the functions and responsibilities  
2 of the lead systems integrator in an efficient and  
3 cost-effective manner.

## 4 **TITLE II—COAST GUARD** 5 **ACQUISITION POLICY**

### 6 **SEC. 201. OPERATIONAL REQUIREMENTS.**

7 (a) IN GENERAL.—No Level 1 or Level 2 acquisition  
8 program may be initiated by the Coast Guard, and no pro-  
9 duction contract may be awarded for such an acquisition,  
10 unless the Commandant has approved an operational re-  
11 quirement for such acquisition.

12 (b) OPERATIONAL REQUIREMENT FOR ACQUISITION  
13 PROGRAMS.—

14 (1) IN GENERAL.—The Commandant shall es-  
15 tablish mature and stable operational requirements  
16 for acquisition programs.

17 (2) ELEMENTS.—Prior to establishing oper-  
18 ational requirements under paragraph (1), the Com-  
19 mandant shall—

20 (A) prepare a preliminary statement of  
21 need, a concept of operations, an analysis of al-  
22 ternatives or the equivalent, an estimate of life-  
23 cycle costs, and requirements for interoper-  
24 ability with other capabilities and assets within  
25 and external to the Coast Guard; and

1 (B) in preparing the concept of operations  
2 under subparagraph (A), coordinate with acqui-  
3 sition and support professionals, requirements  
4 officials, operational users and maintainers, and  
5 resource officials who can ensure the appro-  
6 priate consideration of performance, cost,  
7 schedule and risk trade-offs.

8 (c) CONSIDERATION OF TRADE-OFFS.—In estab-  
9 lishing operational requirements under subsection (a), the  
10 Commandant shall develop and implement mechanisms to  
11 ensure that trade-offs among performance, cost, schedule,  
12 and risk are considered in the establishment of operational  
13 requirements for development and production of a Level  
14 1 or Level 2 acquisition.

15 (d) ELEMENTS.—The mechanisms required under  
16 this section shall ensure at a minimum that Coast Guard  
17 officials responsible for acquisition management, budget,  
18 and cost estimating functions have the authority to de-  
19 velop cost estimates and raise cost and schedule matters  
20 at any point in the process of establishing operational re-  
21 quirements for a Level 1 or Level 2 acquisition.

22 **SEC. 202. REQUIRED CONTRACT TERMS.**

23 (a) IN GENERAL.—The Commandant shall ensure  
24 that a contract awarded or a delivery order or task order  
25 issued for an acquisition of a capability or an asset with

1 an expected service life of 10 years and with a total acqui-  
2 sition cost that is equal to or exceeds \$10,000,000 award-  
3 ed or issued by the Coast Guard after the date of enact-  
4 ment of this Act—

5 (1) provides that all certifications for an end-  
6 state capability or asset under such contract, deliv-  
7 ery order, or task order, respectively, will be con-  
8 ducted by the Commandant or an independent third  
9 party, and that self-certification by a contractor or  
10 subcontractor is not allowed;

11 (2) requires that the Commandant shall main-  
12 tain the authority to establish, approve, and main-  
13 tain technical requirements;

14 (3) requires that any measurement of con-  
15 tractor and subcontractor performance be based on  
16 the status of all work performed, including the ex-  
17 tent to which the work performed met all perform-  
18 ance, cost, and schedule requirements;

19 (4) specifies that, for the acquisition or upgrade  
20 of air, surface, or shore capabilities and assets for  
21 which compliance with TEMPEST certification is a  
22 requirement, the standard for determining such com-  
23 pliance will be the air, surface, or shore standard  
24 then used by the Department of the Navy for that  
25 type of capability or asset; and

1           (5) for any contract awarded to acquire an Off-  
2       shore Patrol Cutter, includes provisions specifying  
3       the service life, fatigue life, and days underway in  
4       general Atlantic and North Pacific Sea conditions,  
5       maximum range, and maximum speed the cutter will  
6       be built to achieve.

7       (b) PROHIBITED CONTRACT PROVISIONS.—The Com-  
8       mandant shall ensure that any contract awarded or deliv-  
9       ery order or task order issued by the Coast Guard after  
10      the date of enactment of this Act does not include any  
11      provision allowing for equitable adjustment that differs  
12      from the Federal Acquisition Regulation.

13      (c) EXTENSION OF PROGRAM.—Any contract, con-  
14      tract modification, or award term extending a contract  
15      with a lead systems integrator—

16           (1) shall not include any minimum require-  
17      ments for the purchase of a given or determinable  
18      number of specific capabilities or assets; and

19           (2) shall be reviewed by an independent third  
20      party with expertise in acquisition management, and  
21      the results of that review shall be submitted to the  
22      appropriate congressional committees at least 60  
23      days prior to the award of the contract, contract  
24      modification, or award term.

1 **SEC. 203. LIFE-CYCLE COST ESTIMATES.**

2 (a) IN GENERAL.—The Commandant shall imple-  
3 ment mechanisms to ensure the development and regular  
4 updating of life-cycle cost estimates for each acquisition  
5 with a total acquisition cost that equals or exceeds  
6 \$10,000,000 and an expected service life of 10 years, and  
7 to ensure that these estimates are considered in decisions  
8 to develop or produce new or enhanced capabilities and  
9 assets.

10 (b) TYPES OF ESTIMATES.—In addition to life-cycle  
11 cost estimates that may be developed by acquisition pro-  
12 gram offices, the Commandant shall require that an inde-  
13 pendent life-cycle cost estimate be developed for each  
14 Level 1 or Level 2 acquisition program or project.

15 (c) REQUIRED UPDATES.—For each Level 1 or Level  
16 2 acquisition program or project the Commandant shall  
17 require that life-cycle cost estimates shall be updated be-  
18 fore each milestone decision is concluded and the program  
19 or project enters a new acquisition phase.

20 **SEC. 204. TEST AND EVALUATION.**

21 (a) TEST AND EVALUATION MASTER PLAN.—

22 (1) IN GENERAL.—For any Level 1 or Level 2  
23 acquisition program or project the Coast Guard  
24 Chief Acquisition Officer must approve a Test and  
25 Evaluation Master Plan specific to the acquisition  
26 program or project for the capability, asset, or sub-

1 systems of the capability or asset and intended to  
2 minimize technical, cost, and schedule risk as early  
3 as practicable in the development of the program or  
4 project.

5 (2) TEST AND EVALUATION STRATEGY.—The  
6 TEMP shall—

7 (A) set forth an integrated test and evalua-  
8 tion strategy that will verify that capability-level  
9 or asset-level and sub-system-level design and  
10 development, including performance and  
11 supportability, have been sufficiently proven be-  
12 fore the capability, asset, or sub-system of the  
13 capability or asset is approved for production;  
14 and

15 (B) require that adequate developmental  
16 tests and evaluations and operational tests and  
17 evaluations established under subparagraph (A)  
18 are performed to inform production decisions.

19 (3) OTHER COMPONENTS OF TEMP.—At a min-  
20 imum, the TEMP shall identify—

21 (A) the key performance parameters to be  
22 resolved through the integrated test and evalua-  
23 tion strategy;

1 (B) critical operational issues to be as-  
2 sessed in addition to the key performance pa-  
3 rameters;

4 (C) specific development test and evalua-  
5 tion phases and the scope of each phase;

6 (D) modeling and simulation activities to  
7 be performed, if any, and the scope of such ac-  
8 tivities;

9 (E) early operational assessments to be  
10 performed, if any, and the scope of such assess-  
11 ments;

12 (F) operational test and evaluation phases;

13 (G) an estimate of the resources, including  
14 funds, that will be required for all test, evalua-  
15 tion, assessment, modeling, and simulation ac-  
16 tivities; and

17 (H) the Government entity or independent  
18 entity that will perform the test, evaluation, as-  
19 sessment, modeling, and simulation activities.

20 (4) UPDATE.—The Coast Guard Chief Acquisi-  
21 tion Officer shall approve an updated TEMP when-  
22 ever there is a revision to program or project test  
23 and evaluation strategy, scope, or phasing.

24 (5) LIMITATION.—The Coast Guard may not—



1 (A) proceed past that phase of the acquisi-  
2 tion process that entails approving the sup-  
3 porting acquisition of a capability or asset be-  
4 fore the TEMP is approved by the Coast Guard  
5 Chief Acquisition Officer; or

6 (B) award any production contract for a  
7 capability, asset, or sub-system for which a  
8 TEMP is required under this subsection before  
9 the TEMP is approved by the Coast Guard  
10 Chief Acquisition Officer.

11 (b) TESTS AND EVALUATIONS.—

12 (1) IN GENERAL.—The Commandant shall en-  
13 sure that the Coast Guard conducts developmental  
14 tests and evaluations and operational tests and eval-  
15 uations of a capability or asset and the sub-systems  
16 of the capability or asset for which a TEMP has  
17 been prepared under subsection (a).

18 (2) USE OF THIRD PARTIES.—The Com-  
19 mandant shall ensure that the Coast Guard uses  
20 third parties with expertise in testing and evaluating  
21 the capabilities or assets and the sub-systems of the  
22 capabilities or assets being acquired to conduct de-  
23 velopmental tests and evaluations and operational  
24 tests and evaluations whenever the Coast Guard

1 lacks the capability to conduct the tests and evalua-  
2 tions required by a TEMP.

3 (3) COMMUNICATION OF SAFETY CONCERNS.—

4 The Commandant shall require that safety concerns  
5 identified during developmental or operational tests  
6 and evaluations or through independent or Govern-  
7 ment-conducted design assessments of capabilities or  
8 assets and sub-systems of capabilities or assets to be  
9 acquired by the Coast Guard shall be communicated  
10 as soon as practicable, but not later than 30 days  
11 after the completion of the test or assessment event  
12 or activity that identified the safety concern, to the  
13 program manager for the capability or asset and the  
14 sub-systems concerned and to the Coast Guard Chief  
15 Acquisition Officer.

16 (4) REPORTING OF SAFETY CONCERNS.—Any  
17 safety concerns that have been reported to the Chief  
18 Acquisition Officer for an acquisition program or  
19 project shall be reported by the Commandant to the  
20 appropriate congressional committees at least 90  
21 days before the award of any contract or issuance of  
22 any delivery order or task order for low, initial, or  
23 full-rate production of the capability or asset con-  
24 cerned if they will remain uncorrected or unmiti-  
25 gated at the time such a contract is awarded or de-

1 livery order or task order is issued. The report shall  
2 include a justification for the approval of that level  
3 of production of the capability or asset before the  
4 safety concern is corrected or mitigated. The report  
5 shall also include an explanation of the actions that  
6 will be taken to correct or mitigate the safety con-  
7 cern, the date by which those actions will be taken,  
8 and the adequacy of current funding to correct or  
9 mitigate the safety concern.

10 (5) ASSET ALREADY IN LOW, INITIAL, OR FULL-  
11 RATE PRODUCTION.—If operational test and evalua-  
12 tion on a capability or asset already in low, initial,  
13 or full-rate production identifies a safety concern  
14 with the capability or asset or any sub-systems of  
15 the capability or asset not previously identified dur-  
16 ing developmental or operational test and evaluation,  
17 the Commandant shall—

18 (A) notify the program manager and the  
19 Chief Acquisition Officer of the safety concern  
20 as soon as practicable, but not later than 30  
21 days after the completion of the test and eval-  
22 uation event or activity that identified the safe-  
23 ty concern; and

24 (B) notify the appropriate congressional  
25 Committee of the safety concern not later than

1           30 days after notification is made to the pro-  
2           gram manager and Chief Acquisition Officer,  
3           and include in such notification—

4                   (i) an explanation of the actions that  
5                   will be taken to correct or mitigate the  
6                   safety concern in all capabilities or assets  
7                   and sub-systems of the capabilities or as-  
8                   sets yet to be produced, and the date by  
9                   which those actions will be taken;

10                   (ii) an explanation of the actions that  
11                   will be taken to correct or mitigate the  
12                   safety concern in previously produced ca-  
13                   pabilities or assets and sub-systems of the  
14                   capabilities or assets, and the date by  
15                   which those actions will be taken; and

16                   (iii) an assessment of the adequacy of  
17                   current funding to correct or mitigate the  
18                   safety concern in capabilities or assets and  
19                   sub-systems of the capabilities or assets  
20                   and in previously produced capabilities or  
21                   assets and sub-systems.

22           (c) DEFINITIONS.—In this section:

23                   (1) DEVELOPMENTAL TEST AND EVALUA-  
24                   TION.—The term “developmental test and evalua-  
25                   tion” means—

1 (A) the testing of a capability or asset and  
2 the sub-systems of the capability or asset to de-  
3 termine whether they meet all contractual per-  
4 formance requirements, including technical per-  
5 formance requirements, supportability require-  
6 ments, and interoperability requirements and  
7 related specifications; and

8 (B) the evaluation of the results of such  
9 testing.

10 (2) OPERATIONAL TEST AND EVALUATION.—

11 The term “operational test and evaluation” means—

12 (A) the testing of a capability or asset and  
13 the sub-systems of the capability or asset,  
14 under conditions similar to those in which the  
15 capability or asset and subsystems will actually  
16 be deployed, for the purpose of determining the  
17 effectiveness and suitability of the capability or  
18 asset and sub-systems for use by typical Coast  
19 Guard users to conduct those missions for  
20 which the capability or asset and sub-systems  
21 are intended to be used; and

22 (B) the evaluation of the results of such  
23 testing.

24 (3) SAFETY CONCERN.—The term “safety con-  
25 cern” means any hazard associated with a capability

1 or asset or a sub-system of a capability or asset that  
2 is likely to cause serious bodily injury or death to a  
3 typical Coast Guard user in testing, maintaining, re-  
4 pairing, or operating the capability, asset, or sub-  
5 system or any hazard associated with the capability,  
6 asset, or sub-system that is likely to cause major  
7 damage to the capability, asset, or sub-system dur-  
8 ing the course of its normal operation by a typical  
9 Coast Guard user.

10 (4) TEMP.—The term “TEMP” means a Test  
11 and Evaluation Master Plan for which approval is  
12 required under this section.

13 **SEC. 205. CAPABILITY STANDARDS.**

14 (a) CUTTER CLASSIFICATION.—The Commandant  
15 shall cause each cutter, other than a National Security  
16 Cutter, acquired by the Coast Guard and delivered after  
17 the date of enactment of this Act to be classed by the  
18 American Bureau of Shipping before final acceptance.

19 (b) TEMPEST TESTING.—The Commandant shall—

20 (1) cause all electronics on all aircraft, surface,  
21 and shore capabilities and assets that require TEM-  
22 PEST certification and that are delivered after the  
23 date of enactment of this Act to be tested in accord-  
24 ance with TEMPEST standards and communication  
25 security (COMSEC) standards by an independent

1 third party that is authorized by the Federal Gov-  
2 ernment to perform such testing; and

3 (2) certify that the capabilities and assets meet  
4 all applicable TEMPEST requirements.

5 (c) NATIONAL SECURITY CUTTERS.—

6 (1) NATIONAL SECURITY CUTTERS 1 AND 2.—

7 Not later than 90 days before the Coast Guard  
8 awards any contract or issues any delivery order or  
9 task order to strengthen the hull of either of Na-  
10 tional Security Cutter 1 or 2 to resolve the struc-  
11 tural design and performance issues identified in the  
12 Department of Homeland Security Inspector Gen-  
13 eral's report OIG-07-23 dated January 2007, the  
14 Commandant shall submit to the appropriate con-  
15 gressional committees all results of an assessment of  
16 the proposed hull strengthening design conducted by  
17 the Coast Guard, including—

18 (A) a description in detail of the extent to  
19 which the hull strengthening measures to be im-  
20 plemented on those cutters will enable the cut-  
21 ters to meet contract and performance require-  
22 ments;

23 (B) a cost benefit analysis of the proposed  
24 hull strengthening measures for National Secu-  
25 rity Cutters 1 and 2; and

1 (C) a description of any operational re-  
2 strictions that would have to be applied to ei-  
3 ther National Security Cutters 1 or 2 if the  
4 proposed hull strengthening measures were not  
5 implemented on either cutter.

6 (2) OTHER VESSELS.—The Commandant shall  
7 cause the design and construction of each National  
8 Security Cutter, other than National Security Cut-  
9 ters 1, 2, and 3, to be assessed by an independent  
10 third party with expertise in vessel design and con-  
11 struction certification.

12 (d) AIRCRAFT AIRWORTHINESS.—The Commandant  
13 shall cause all aircraft and aircraft engines acquired by  
14 the Coast Guard and delivered after the date of enactment  
15 of this Act to be assessed for airworthiness by an inde-  
16 pendent third party with expertise in aircraft and aircraft  
17 engine certification, before final acceptance.

18 **SEC. 206. ACQUISITION PROGRAM REPORTS.**

19 Any Coast Guard Level 1 or Level 2 acquisition pro-  
20 gram or project may not begin to obtain any capability  
21 or asset or proceed beyond that phase of its development  
22 that entails approving the supporting acquisition until the  
23 Commandant submits to the appropriate congressional  
24 committees the following:



1           (1) The key performance parameters, the key  
2           system attributes, and the operational performance  
3           attributes of the capability and asset to be acquired  
4           under the proposed acquisition program or project  
5           will be built to achieve.

6           (2) A detailed list of the systems or other capa-  
7           bilities with which the capability or asset to be ac-  
8           quired is intended to be interoperable, including an  
9           explanation of the attributes of interoperability.

10          (3) The anticipated acquisition program base-  
11          line and acquisition unit cost for the capability or  
12          asset to be produced and deployed under the pro-  
13          gram or project.

14          (4) A detailed schedule for the acquisition proc-  
15          ess showing when all capability and asset acquisi-  
16          tions are to be completed and when all acquired ca-  
17          pabilities and assets are to be initially and fully de-  
18          ployed.

19 **SEC. 207. UNDEFINITIZED CONTRACTUAL ACTIONS.**

20          (a) IN GENERAL.—The Coast Guard may not enter  
21          into an undefinitized contractual action unless such action  
22          is directly approved by the Head of Contracting Activity  
23          of the Coast Guard.

24          (b) REQUESTS FOR UNDEFINITIZED CONTRACTUAL  
25          ACTIONS.—Any request to the Head of Contracting Activ-

1 ity for approval of an undefinitized contractual action cov-  
 2 ered under subsection (a) must include a description of  
 3 the anticipated effect on requirements of the Coast Guard  
 4 if a delay is incurred for the purposes of determining con-  
 5 tractual terms, specifications, and price before perform-  
 6 ance is begun under the contractual action.

7 (c) REQUIREMENTS FOR UNDEFINITIZED CONTRAC-  
 8 TUAL ACTIONS.—

9 (1) DEADLINE FOR AGREEMENT ON TERMS,  
 10 SPECIFICATIONS, AND PRICE.—A contracting officer  
 11 of the Coast Guard may not enter into an  
 12 undefinitized contractual action unless the contrac-  
 13 tual action provides for agreement upon contractual  
 14 terms, specification, and price by the earlier of—

15 (A) the end of the 180-day period begin-  
 16 ning on the date on which the contractor sub-  
 17 mits a qualifying proposal to definitize the con-  
 18 tractual terms, specifications, and price; or

19 (B) the date on which the amount of funds  
 20 obligated under the contractual action is equal  
 21 to more than 50 percent of the negotiated over-  
 22 all ceiling price for the contractual action.

23 (2) LIMITATION ON OBLIGATIONS.—

24 (A) IN GENERAL.—Except as provided in  
 25 subparagraph (B), the contracting officer for an

1           undefined contractual action may not obli-  
2           gate under such contractual action an amount  
3           that exceeds 50 percent of the negotiated over-  
4           all ceiling price until the contractual terms,  
5           specifications, and price are definitized for such  
6           contractual action.

7           (B) EXCEPTION.—Notwithstanding sub-  
8           paragraph (A), if a contractor submits a quali-  
9           fying proposal to definitize an undefined  
10          contractual action before an amount that ex-  
11          ceeds 50 percent of the negotiated overall ceil-  
12          ing price is obligated on such action, the con-  
13          tracting officer for such action may not obligate  
14          with respect to such contractual action an  
15          amount that exceeds 75 percent of the nego-  
16          tiated overall ceiling price until the contractual  
17          terms, specifications, and price are definitized  
18          for such contractual action.

19          (3) WAIVER.—The Commandant may waive the  
20          application of this subsection with respect to a con-  
21          tract if the Commandant determines that the waiver  
22          is necessary to support—

23                (A) a contingency operation (as that term  
24                is defined in section 101(a)(13) of title 10,  
25                United States Code);

1 (B) an operation in response to an emer-  
2 gency that poses an unacceptable threat to  
3 human health or safety or to the marine envi-  
4 ronment; or

5 (C) an operation in response to a natural  
6 disaster or major disaster or emergency des-  
7 ignated by the President under the Robert T.  
8 Stafford Disaster Relief and Emergency Assist-  
9 ance Act (42 U.S.C. 5121 et seq.).

10 (4) LIMITATION ON APPLICATION.—This sub-  
11 section does not apply to an undefinitized contrac-  
12 tual action for the purchase of initial spares.

13 (d) INCLUSION OF NONURGENT REQUIREMENTS.—  
14 Requirements for spare parts and support equipment that  
15 are not needed on an urgent basis may not be included  
16 in an undefinitized contractual action by the Coast Guard  
17 for spare parts and support equipment that are needed  
18 on an urgent basis unless the Commandant approves such  
19 inclusion as being—

20 (1) good business practice; and

21 (2) in the best interests of the United States.

22 (e) MODIFICATION OF SCOPE.—The scope of an  
23 undefinitized contractual action under which performance  
24 has begun may not be modified unless the Commandant  
25 approves such modification as being—

1 (1) good business practice; and

2 (2) in the best interests of the United States.

3 (f) ALLOWABLE PROFIT.—The Commandant shall  
4 ensure that the profit allowed on an undefinitized contrac-  
5 tual action for which the final price is negotiated after  
6 a substantial portion of the performance required is com-  
7 pleted reflects—

8 (1) the possible reduced cost risk of the con-  
9 tractor with respect to costs incurred during per-  
10 formance of the contract before the final price is ne-  
11 gotiated; and

12 (2) the reduced cost risk of the contractor with  
13 respect to costs incurred during performance of the  
14 remaining portion of the contract.

15 (g) DEFINITIONS.—In this section:

16 (1) UNDEFINITIZED CONTRACTUAL ACTION.—

17 (A) IN GENERAL.—Except as provided in  
18 subparagraph (B), the term “undefinitized con-  
19 tractual action” means a new procurement ac-  
20 tion entered into by the Coast Guard for which  
21 the contractual terms, specifications, or price  
22 are not agreed upon before performance is  
23 begun under the action.

1 (B) EXCLUSION.—Such term does not in-  
2 clude contractual actions with respect to the fol-  
3 lowing:

4 (i) Foreign military sales.

5 (ii) Purchases in an amount not in ex-  
6 cess of the amount of the simplified acqui-  
7 sition threshold.

8 (iii) Special access programs.

9 (2) QUALIFYING PROPOSAL.—The term “quali-  
10 fying proposal” means a proposal that contains suf-  
11 ficient information to enable complete and meaning-  
12 ful audits of the information contained in the pro-  
13 posal as determined by the contracting officer.

14 **SEC. 208. GUIDANCE ON EXCESSIVE PASS-THROUGH**  
15 **CHARGES.**

16 (a) IN GENERAL.—Not later than 180 days after the  
17 date of enactment of this Act, the Commandant shall issue  
18 guidance to ensure that pass-through charges on con-  
19 tracts, subcontracts, delivery orders, and task orders that  
20 are entered into with a private entity acting as a lead sys-  
21 tems integrator by or on behalf of the Coast Guard are  
22 not excessive in relation to the cost of work performed by  
23 the relevant contractor or subcontractor. The guidance  
24 shall, at a minimum—

1           (1) set forth clear standards for determining  
2       when no, or negligible, value has been added to a  
3       contract by a contractor or subcontractor;

4           (2) set forth procedures for preventing the pay-  
5       ment by the Government of excessive pass-through  
6       charges; and

7           (3) identify any exceptions determined by the  
8       Commandant to be in the best interest of the Gov-  
9       ernment.

10       (b) EXCESSIVE PASS-THROUGH CHARGE DE-  
11 FINED.—In this section the term “excessive pass-through  
12 charge”, with respect to a contractor or subcontractor that  
13 adds no, or negligible, value to a contract or subcontract,  
14 means a charge to the Government by the contractor or  
15 subcontractor that is for overhead or profit on work per-  
16 formed by a lower-tier contractor or subcontractor, other  
17 than reasonable charges for the direct costs of managing  
18 lower-tier contractors and subcontracts and overhead and  
19 profit based on such direct costs.

20       (c) APPLICATION OF GUIDANCE.—The guidance  
21 under this subsection shall apply to contracts awarded to  
22 a private entity acting as a lead systems integrator by or  
23 on behalf of the Coast Guard on or after the date that  
24 is 360 days after the date of enactment of this Act.

1 **SEC. 209. ACQUISITION OF MAJOR CAPABILITIES: ALTER-**  
2 **NATIVES ANALYSIS.**

3       The Coast Guard may not acquire an experimental  
4 or technically immature capability or asset or implement  
5 a Level 1 or Level 2 acquisition, unless it has conducted  
6 an alternatives analysis for the capability or asset to be  
7 acquired in the concept and technology development phase  
8 of the acquisition process for the capability or asset. Such  
9 analysis shall be conducted by a federally funded research  
10 and development center, a qualified entity of the Depart-  
11 ment of Defense, or a similar independent third party enti-  
12 ty that has appropriate acquisition expertise. Such alter-  
13 natives analysis shall include—

14           (1) an assessment of the technical maturity of  
15 the capability or asset and technical and other risks;

16           (2) an examination of capability, interoper-  
17 ability, and other advantages and disadvantages;

18           (3) an evaluation of whether different combina-  
19 tions or quantities of specific capabilities or assets  
20 could meet the Coast Guard's overall performance  
21 needs;

22           (4) a discussion of key assumptions and vari-  
23 ables, and sensitivity to change in such assumptions  
24 and variables;



1           (5) when an alternative is an existing capa-  
2           bility, asset, or prototype, an evaluation of relevant  
3           safety and performance records and costs;

4           (6) a calculation of life-cycle costs, including—

5                 (A) an examination of development costs  
6                 and the levels of uncertainty associated with  
7                 such estimated costs;

8                 (B) an examination of likely production  
9                 and deployment costs and the levels of uncer-  
10                tainty associated with such estimated costs;

11                (C) an examination of likely operating and  
12                support costs and the levels of uncertainty asso-  
13                ciated with such estimated costs;

14                (D) if they are likely to be significant, an  
15                examination of likely disposal costs and the lev-  
16                els of uncertainty associated with such esti-  
17                mated costs; and

18                (E) such additional measures the Com-  
19                mandant determines to be necessary for appro-  
20                priate evaluation of the capability or asset; and

21           (7) the business case for each viable alternative.

22 **SEC. 210. COST OVERRUNS AND DELAYS.**

23           (a) IN GENERAL.—The Commandant shall submit a  
24           report to the appropriate congressional committees as  
25           soon as possible, but not later than 30 days, after the

1 Chief Acquisition Officer of the Coast Guard becomes  
2 aware of the breach of an acquisition program baseline  
3 for any Level 1 or Level 2 acquisition program, by—

4 (1) a likely cost overrun greater than 10 per-  
5 cent of the acquisition program baseline for that in-  
6 dividual capability or asset or a class of capabilities  
7 or assets;

8 (2) a likely delay of more than 180 days in the  
9 delivery schedule for any individual capability or  
10 asset or class of capabilities or assets; or

11 (3) an anticipated failure for any individual ca-  
12 pability or asset or class of capabilities or assets to  
13 satisfy any key performance threshold or parameter  
14 under the acquisition program baseline.

15 (b) CONTENT.—The report submitted under sub-  
16 section (a) shall include—

17 (1) a detailed description of the breach and an  
18 explanation of its cause;

19 (2) the projected impact to performance, cost,  
20 and schedule;

21 (3) an updated acquisition program baseline  
22 and the complete history of changes to the original  
23 acquisition program baseline;

24 (4) the updated acquisition schedule and the  
25 complete history of changes to the original schedule;

1           (5) a full life-cycle cost analysis for the capa-  
2           bility or asset or class of capabilities or assets;

3           (6) a remediation plan identifying corrective ac-  
4           tions and any resulting issues or risks; and

5           (7) a description of how progress in the remedi-  
6           ation plan will be measured and monitored.

7           (c) SUBSTANTIAL VARIANCES IN COSTS OR SCHED-  
8           ULE.—If a likely cost overrun is greater than 20 percent  
9           or a likely delay is greater than 12 months from the costs  
10          and schedule described in the acquisition program baseline  
11          for any Level 1 or Level 2 acquisition program or project  
12          of the Coast Guard, the Commandant shall include in the  
13          report a written certification, with a supporting expla-  
14          nation, that—

15               (1) the capability or asset or capability or asset  
16               class to be acquired under the program or project is  
17               essential to the accomplishment of Coast Guard mis-  
18               sions;

19               (2) there are no alternatives to such capability  
20               or asset or capability or asset class which will pro-  
21               vide equal or greater capability in both a more cost-  
22               effective and timely manner;

23               (3) the new acquisition schedule and estimates  
24               for total acquisition cost are reasonable; and

1           (4) the management structure for the acquisi-  
2           tion program is adequate to manage and control per-  
3           formance, cost, and schedule.

4 **SEC. 211. REPORT ON FORMER COAST GUARD OFFICIALS**  
5 **EMPLOYED BY CONTRACTORS TO THE AGEN-**  
6 **CY.**

7           (a) REPORT REQUIRED.—Not later than December  
8 31, 2009, and annually thereafter, the Comptroller Gen-  
9 eral of the United States shall submit a report to the ap-  
10 propriate congressional committees on the employment  
11 during the preceding year by Coast Guard contractors of  
12 individuals who were Coast Guard officials in the previous  
13 5-year period. The report shall assess the extent to which  
14 former Coast Guard officials were provided compensation  
15 by Coast Guard contractors in the preceding calendar  
16 year.

17          (b) OBJECTIVES OF REPORT.—At a minimum, the  
18 report required by this section shall assess the extent to  
19 which former Coast Guard officials who receive compensa-  
20 tion from Coast Guard contractors have been assigned by  
21 those contractors to work on contracts or programs be-  
22 tween the contractor and the Coast Guard, including con-  
23 tracts or programs for which the former official personally  
24 had oversight responsibility or decision-making authority  
25 when they served in or worked for the Coast Guard.

1 (c) CONFIDENTIALITY REQUIREMENT.—The report  
2 required by this subsection shall not include the names  
3 of the former Coast Guard officials who receive compensa-  
4 tion from Coast Guard contractors.

5 (d) ACCESS TO INFORMATION.—A Coast Guard con-  
6 tractor shall provide the Comptroller General access to in-  
7 formation requested by the Comptroller General for the  
8 purpose of conducting the study required by this section.

9 (e) DEFINITIONS.—In this section:

10 (1) COAST GUARD CONTRACTOR.—The term  
11 “Coast Guard contractor” includes any person that  
12 received at least \$10,000,000 in contractor awards  
13 from the Coast Guard in the calendar year covered  
14 by the annual report.

15 (2) COAST GUARD OFFICIAL.—The term “Coast  
16 Guard official” includes former officers of the Coast  
17 Guard who were compensated at a rate of pay for  
18 grade O–7 or above during the calendar year prior  
19 to the date on which they separated from the Coast  
20 Guard, and former civilian employees of the Coast  
21 Guard who served at any level of the Senior Execu-  
22 tive Service under subchapter VIII of chapter 53 of  
23 title 5, United States Code, during the calendar year  
24 prior to the date on which they separated from the  
25 Coast Guard.

1 **SEC. 212. DEPARTMENT OF DEFENSE CONSULTATION.**

2 (a) IN GENERAL.—The Commandant shall make ar-  
3 rangements as appropriate with the Secretary of Defense  
4 for support in contracting and management of Coast  
5 Guard acquisition programs. The Commandant shall also  
6 seek opportunities to make use of Department of Defense  
7 contracts, and contracts of other appropriate agencies, to  
8 obtain the best possible price for capabilities and assets  
9 acquired for the Coast Guard.

10 (b) INTER-SERVICE TECHNICAL ASSISTANCE.—The  
11 Commandant may enter into a memorandum of under-  
12 standing or a memorandum of agreement with the Sec-  
13 retary of the Navy to obtain the assistance of the Office  
14 of the Assistant Secretary of the Navy for Research, De-  
15 velopment, and Acquisition, including the Navy Systems  
16 Commands, with the oversight of Coast Guard major ac-  
17 quisition programs. Such memorandum of understanding  
18 or memorandum of agreement shall, at a minimum, pro-  
19 vide for—

20 (1) the exchange of technical assistance and  
21 support that the Coast Guard Chief Acquisition Offi-  
22 cer, Coast Guard Chief Engineer, and the Coast  
23 Guard Chief Information Officer may identify;

24 (2) the use, as appropriate, of Navy technical  
25 expertise; and

1           (3) the temporary assignment or exchange of  
2       personnel between the Coast Guard and the Office  
3       of the Assistant Secretary of the Navy for Research,  
4       Development, and Acquisition, including Naval Sys-  
5       tems Commands, to facilitate the development of or-  
6       ganic capabilities in the Coast Guard.

7       (c) TECHNICAL REQUIREMENT APPROVAL PROCE-  
8       DURES.—The Coast Guard Chief Acquisition Officer shall  
9       adopt, to the extent practicable, procedures that are simi-  
10      lar to those used by the senior procurement executive of  
11      the Department of the Navy to approve all technical re-  
12      quirements.

13      (d) ASSESSMENT.—Within 180 days after the date  
14      of enactment of this Act, the Comptroller General shall  
15      transmit a report to the appropriate congressional com-  
16      mittees that—

17           (1) contains an assessment of current Coast  
18      Guard acquisition and management capabilities to  
19      manage Level 1 and Level 2 acquisitions;

20           (2) includes recommendations as to how the  
21      Coast Guard can improve its acquisition manage-  
22      ment, either through internal reforms or by seeking  
23      acquisition expertise from the Department of De-  
24      fense; and

(3) addresses specifically the question of whether the Coast Guard can better leverage Department of Defense or other agencies' contracts that would meet the needs of Level 1 or Level 2 acquisitions in order to obtain the best possible price.

## **TITLE III—COAST GUARD PERSONNEL**

### **SEC. 301. CHIEF ACQUISITION OFFICER.**

(a) IN GENERAL.—Chapter 3 of title 14, United States Code, is amended by adding at the end the following:

#### **“§ 55. Chief Acquisition Officer**

“(a) ESTABLISHMENT OF CHIEF ACQUISITION OFFICER.—There shall be in the Coast Guard a Chief Acquisition Officer selected by the Commandant who shall be a Rear Admiral or civilian from the Senior Executive Service (career reserved) and who meets the qualifications set forth under subsection (b). The Chief Acquisition Officer shall serve at the Assistant Commandant level and have acquisition management as that individual's primary duty.

#### **“(b) QUALIFICATIONS.—**

“(1) The Chief Acquisition Officer and any Flag Officer serving in the Acquisitions Directorate shall be an acquisition professional with a program manager level III certification and must have at



1       least 10 years experience in an acquisition position,  
2       of which at least 4 years were spent in one of the  
3       following qualifying positions:

4               “(A) Program executive officer.

5               “(B) Program manager of a Level 1 or  
6       Level 2 acquisition.

7               “(C) Deputy program manager of a Level  
8       1 or Level 2 acquisition.

9               “(D) Project manager for a Level 1 or  
10      Level 2 acquisition.

11              “(E) Any other acquisition position of sig-  
12      nificant responsibility in which the primary du-  
13      ties are supervisory or management duties.

14              “(2) The Commandant shall periodically publish  
15      a list of the positions designated under this sub-  
16      section.

17              “(c) AUTHORITY AND FUNCTIONS OF THE CHIEF AC-  
18      QUISITION OFFICER.—The functions of the Chief Acquisi-  
19      tion Officer shall include—

20              “(1) monitoring the performance of programs  
21      and projects on the basis of applicable performance  
22      measurements and advising the Commandant,  
23      through the chain of command, regarding the appro-  
24      priate business strategy to achieve the missions of  
25      the Coast Guard;

1           “(2) maximizing the use of full and open com-  
2           petition at the prime contract and subcontract levels  
3           in the acquisition of property, capabilities, assets,  
4           and services by the Coast Guard by establishing poli-  
5           cies, procedures, and practices that ensure that the  
6           Coast Guard receives a sufficient number of sealed  
7           bids or competitive proposals from responsible  
8           sources to fulfill the Government’s requirements, in-  
9           cluding performance and delivery schedules, at the  
10          lowest cost or best value considering the nature of  
11          the property, capability, asset, or service procured;

12          “(3) making acquisition decisions in concur-  
13          rence with the technical authority of the Coast  
14          Guard, as designated by the Commandant, and con-  
15          sistent with all other applicable laws and decisions  
16          establishing procedures within the Coast Guard;

17          “(4) ensuring the use of detailed performance  
18          specifications in instances in which performance  
19          based contracting is used;

20          “(5) managing the direction of acquisition pol-  
21          icy for the Coast Guard, including implementation of  
22          the unique acquisition policies, regulations, and  
23          standards of the Coast Guard;

24          “(6) developing and maintaining an acquisition  
25          career management program in the Coast Guard to

1 ensure that there is an adequate acquisition work-  
2 force;

3 “(7) assessing the requirements established for  
4 Coast Guard personnel regarding knowledge and  
5 skill in acquisition resources and management and  
6 the adequacy of such requirements for facilitating  
7 the achievement of the performance goals established  
8 for acquisition management;

9 “(8) developing strategies and specific plans for  
10 hiring, training, and professional development; and

11 “(9) reporting to the Commandant, through the  
12 chain of command, on the progress made in improv-  
13 ing acquisition management capability.”.

14 (b) APPLICATION OF QUALIFICATION REQUIRE-  
15 MENT.—Section 55(b) of title 46, United States Code, as  
16 amended by this section, shall apply beginning October 1,  
17 2011.

18 (c) CLERICAL AMENDMENT.—The table of sections  
19 at the beginning of such chapter is amended by adding  
20 at the end the following:

“55. Chief Acquisition Officer.”.

21 (d) ELEVATION OF DISPUTES TO THE CHIEF ACQUI-  
22 SITION OFFICER.—Within 45 days after the elevation to  
23 the Chief Acquisition Officer of any design or other dis-  
24 pute regarding a Level 1 or Level 2 acquisition, the Com-  
25 mandant shall provide to the appropriate congressional

1 committees a detailed description of the issue and the ra-  
2 tionale underlying the decision taken by the Chief Acquisi-  
3 tion Officer to resolve the issue.

4 (e) SPECIAL RATE SUPPLEMENTS.—

5 (1) REQUIREMENT TO ESTABLISH.—Not later  
6 than 1 year after the date of enactment of this Act  
7 and in accordance with part 9701.333 of title 5,  
8 Code of Federal Regulations, the Commandant shall  
9 establish special rate supplements that provide high-  
10 er pay levels for employees necessary to carry out  
11 the amendment made by this section.

12 (2) SUBJECT TO APPROPRIATIONS.—The re-  
13 quirement under paragraph (1) is subject to the  
14 availability of appropriations.

15 **SEC. 302. IMPROVEMENTS IN COAST GUARD ACQUISITION**  
16 **MANAGEMENT.**

17 (a) PROGRAM AND PROJECT MANAGERS.—An indi-  
18 vidual may not be assigned as the program manager for  
19 a Level 1 or Level 2 acquisition unless the individual holds  
20 a Level III acquisition certification as a program manager.

21 (b) INTEGRATED PRODUCT TEAMS.—Integrated  
22 product teams, and all teams that oversee integrated prod-  
23 uct teams, shall be chaired by officers, members, or em-  
24 ployees of the Coast Guard.

1       (c) TECHNICAL AUTHORITY.—The Commandant  
2 shall maintain or designate the technical authority to es-  
3 tablish, approve, and maintain technical requirements.  
4 Any such designation shall be made in writing and may  
5 not be delegated to the authority of the Chief Acquisition  
6 Officer established by section 55 of title 14, United States  
7 Code.

8       (d) DESIGNATION OF POSITIONS IN THE ACQUISI-  
9 TION WORKFORCE.—

10           (1) IN GENERAL.—The Commandant shall des-  
11 ignate a sufficient number of positions to be in the  
12 Coast Guard’s acquisition workforce to perform ac-  
13 quisition-related functions at Coast Guard head-  
14 quarters and field activities.

15           (2) REQUIRED POSITIONS.—In designating po-  
16 sitions under subsection (a), the Commandant shall  
17 include, at a minimum, positions encompassing the  
18 following competencies and functions:

19                   (A) Program management.

20                   (B) Systems planning, research, develop-  
21 ment, engineering, and testing.

22                   (C) Procurement, including contracting.

23                   (D) Industrial and contract property man-  
24 agement.

25                   (E) Life-cycle logistics.

1 (F) Quality control and assurance.

2 (G) Manufacturing and production.

3 (H) Business, cost estimating, financial  
4 management, and auditing.

5 (I) Acquisition education, training, and ca-  
6 reer development.

7 (J) Construction and facilities engineering.

8 (K) Testing and evaluation.

9 (3) ACQUISITION MANAGEMENT HEADQUARTER  
10 ACTIVITIES.—The Commandant shall also designate  
11 as positions in the acquisition workforce under para-  
12 graph (1) those acquisition-related positions located  
13 at Coast Guard headquarters units.

14 (4) APPROPRIATE EXPERTISE REQUIRED.—The  
15 Commandant shall ensure that each individual as-  
16 signed to a position in the acquisition workforce has  
17 the appropriate expertise to carry out the respon-  
18 sibilities of that position.

19 (e) MANAGEMENT INFORMATION SYSTEM.—

20 (1) IN GENERAL.—The Commandant shall es-  
21 tablish a management information system capability  
22 to improve acquisition workforce management and  
23 reporting.

24 (2) INFORMATION MAINTAINED.—Information  
25 maintained with such capability shall include the fol-

1       lowing standardized information on individuals as-  
2       signed to positions in the workforce:

3               (A) Qualifications, assignment history, and  
4               tenure of those individuals assigned to positions  
5               in the acquisition workforce or holding acquisi-  
6               tion-related certifications.

7               (B) Promotion rates for officers and mem-  
8               bers of the Coast Guard in the acquisition  
9               workforce.

10       (f) REPORT ON ADEQUACY OF ACQUISITION WORK-  
11       FORCE.—

12               (1) IN GENERAL.—The Commandant shall re-  
13       port to the appropriate congressional committees by  
14       July 1 of each year on the scope of the acquisition  
15       activities to be performed in the next fiscal year and  
16       on the adequacy of the current acquisition workforce  
17       to meet that anticipated workload.

18               (2) CONTENTS.—The report shall—

19               (A) specify the number of officers, mem-  
20       bers, and employees of the Coast Guard cur-  
21       rently and planned to be assigned to each posi-  
22       tion designated under subsection (d); and

23               (B) identify positions that are understaffed  
24       to meet the anticipated acquisition workload,

1           and actions that will be taken to correct such  
2           understaffing.

3           (g) APPOINTMENTS TO ACQUISITION POSITIONS.—

4   The Commandant shall ensure that no requirement or  
5   preference for officers or members of the Coast Guard is  
6   used in the consideration of persons for positions in the  
7   acquisition workforce.

8           (h) CAREER PATHS.—

9           (1) IDENTIFICATION OF CAREER PATHS.—To  
10   establish acquisition management as a core com-  
11   petency of the Coast Guard, the Commandant  
12   shall—

13           (A) ensure that career paths for officers,  
14   members, and employees of the Coast Guard  
15   who wish to pursue careers in acquisition are  
16   identified in terms of the education, training,  
17   experience, and assignments necessary for ca-  
18   reer progression of those officers, members, and  
19   employees to the most senior positions in the  
20   acquisition workforce; and

21           (B) publish information on such career  
22   paths.

23           (2) PROMOTION PARITY.—The Commandant  
24   shall ensure that promotion parity is established for  
25   officers and members of the Coast Guard who have



1       been assigned to the acquisition workforce relative to  
2       officers and members who have not been assigned to  
3       the acquisition workforce.

4       (i) **BALANCED WORKFORCE POLICY.**—In the devel-  
5       opment of acquisition workforce policies under this section  
6       with respect to any civilian employees or applicants for  
7       employment, the Commandant shall, consistent with the  
8       merit system principles set out in paragraphs (1) and (2)  
9       of section 2301(b) of title 5, United States Code, take into  
10      consideration the need to maintain a balanced workforce  
11      in which women and members of racial and ethnic minor-  
12      ity groups are appropriately represented in Government  
13      service.

14      (j) **GUIDANCE ON TENURE AND ACCOUNTABILITY OF**  
15      **PROGRAM MANAGERS.**—

16           (1) **ISSUANCE OF GUIDANCE.**—Not later than  
17      one year after the date of enactment of this Act, the  
18      Commandant shall issue guidance to address the  
19      qualifications, resources, responsibilities, tenure, and  
20      accountability of program managers for the manage-  
21      ment of acquisition programs and projects. The  
22      guidance shall address, at a minimum—

23           (A) the qualifications that shall be required  
24           of program managers, including the number of  
25           years of acquisition experience and the profes-

1 sional training levels to be required of those ap-  
2 pointed to program management positions;

3 (B) authorities available to program man-  
4 agers, including, to the extent appropriate, the  
5 authority to object to the addition of new pro-  
6 gram requirements that would be inconsistent  
7 with the parameters established for an acquisi-  
8 tion program; and

9 (C) the extent to which a program man-  
10 ager who initiates a new program or project will  
11 continue in management of that program or  
12 project without interruption until the delivery of  
13 the first production units of the program.

14 (2) STRATEGY.—

15 (A) IN GENERAL.—Not later than 18  
16 months after the date of enactment of this Act,  
17 the Commandant shall develop a comprehensive  
18 strategy for enhancing the role of Coast Guard  
19 program managers in developing and carrying  
20 out acquisition programs.

21 (B) MATTERS TO BE ADDRESSED.—The  
22 strategy required by this section shall address,  
23 at a minimum—

24 (i) the creation of a specific career  
25 path and career opportunities for individ-

1 uals who are or may become program man-  
2 agers, including the rotational assignments  
3 that will be provided to program managers;

4 (ii) the provision of enhanced training  
5 and educational opportunities for individ-  
6 uals who are or may become program man-  
7 agers;

8 (iii) the provision of mentoring sup-  
9 port to current and future program man-  
10 agers by experienced senior executives and  
11 program managers within the Coast  
12 Guard, and through rotational assignments  
13 to the Department of Defense;

14 (iv) the methods by which the Coast  
15 Guard will collect and disseminate best  
16 practices and lessons learned on systems  
17 acquisition to enhance program manage-  
18 ment throughout the Coast Guard;

19 (v) the templates and tools that will  
20 be used to support improved data gath-  
21 ering and analysis for program manage-  
22 ment and oversight purposes, including the  
23 metrics that will be utilized to assess the  
24 effectiveness of Coast Guard program

1 managers in managing systems acquisition  
2 efforts;

3 (vi) a description in detail of how the  
4 Coast Guard will promote a balanced work-  
5 force in which women and members of ra-  
6 cial and ethnic minority groups are appro-  
7 priately represented in Government service;  
8 and

9 (vii) the methods by which the ac-  
10 countability of program managers for the  
11 results of acquisition programs will be in-  
12 creased.

13 (3) REPORT BY COMPTROLLER GENERAL.—Not  
14 later than 2 years after the date of enactment of  
15 this Act, the Comptroller General of the United  
16 States shall submit to the appropriate congressional  
17 committees a report on the actions taken by the  
18 Commandant to implement the requirements of this  
19 subsection, including the strategies that are required  
20 to be developed by this subsection.

21 **SEC. 303. RECOGNITION OF COAST GUARD PERSONNEL**  
22 **FOR EXCELLENCE IN ACQUISITION.**

23 (a) IN GENERAL.—Not later than 180 days after the  
24 date of enactment of this Act, the Commandant shall com-  
25 mence implementation of a program to recognize excellent

1 performance by individuals and teams comprised of offi-  
2 cers, members, and employees of the Coast Guard that  
3 contributed to the long-term success of a Coast Guard ac-  
4 quisition program or project.

5 (b) ELEMENTS.—The program required by sub-  
6 section (a) shall include the following:

7 (1) Specific award categories, criteria, and eligi-  
8 bility and manners of recognition.

9 (2) Procedures for the nomination by personnel  
10 of the Coast Guard of individuals and teams com-  
11 prised of officers, members, and employees of the  
12 Coast Guard for recognition under the program.

13 (3) Procedures for the evaluation of nomina-  
14 tions for recognition under the program by one or  
15 more panels of individuals from the Government,  
16 academia, and the private sector who have such ex-  
17 pertise and are appointed in such manner as the  
18 Commandant shall establish for the purposes of this  
19 program.

20 (c) AWARD OF CASH BONUSES.—As part of the pro-  
21 gram required by subsection (a), the Commandant, sub-  
22 ject to the availability of appropriations, may award to any  
23 individual recognized pursuant to the program a cash  
24 bonus to the extent that the performance of such indi-  
25 vidual so recognized warrants the award of such bonus.

1 **SEC. 304. ENHANCED STATUS QUO OFFICER PROMOTION**  
2 **SYSTEM.**

3 Chapter 11 of title 14, United States Code, is amend-  
4 ed—

5 (1) in section 253(a)—

6 (A) by inserting “and” after “considered,”;

7 and

8 (B) by striking “, and the number of offi-  
9 cers the board may recommend for promotion”;

10 (2) in section 258—

11 (A) by inserting “(a) IN GENERAL.—” be-  
12 fore the existing text;

13 (B) in subsection (a) (as so designated) by  
14 striking the colon at the end of the material  
15 preceding paragraph (1) and inserting “—”;  
16 and

17 (C) by adding at the end the following:

18 “(b) PROVISION OF DIRECTION AND GUIDANCE.—

19 “(1) In addition to the information provided  
20 pursuant to subsection (a), the Commandant may  
21 furnish the selection board—

22 “(A) specific direction relating to the needs  
23 of the Coast Guard for officers having par-  
24 ticular skills, including direction relating to the  
25 need for a minimum number of officers with  
26 particular skills within a specialty; and

1           “(B) any other guidance that the Com-  
2           mandant believes may be necessary to enable  
3           the board to properly perform its functions.

4           “(2) Selections made based on the direction and  
5           guidance provided under this subsection shall not ex-  
6           ceed the maximum percentage of officers who may  
7           be selected from below the announced promotion  
8           zone at any given selection board convened under  
9           section 251 of this title.”;

10          (3) in section 259(a), by inserting after “whom  
11          the board” the following: “, giving due consideration  
12          to the needs of the Coast Guard for officers with  
13          particular skills so noted in specific direction fur-  
14          nished to the board by the Commandant under sec-  
15          tion 258 of this title,”; and

16          (4) in section 260(b), by inserting after “quali-  
17          fied for promotion” the following: “to meet the  
18          needs of the service (as noted in specific direction  
19          furnished the board by the Commandant under sec-  
20          tion 258 of this title)”.

21 **SEC. 305. COAST GUARD ACQUISITION WORKFORCE EXPE-**  
22 **DITED HIRING AUTHORITY.**

23          (a) IN GENERAL.—For purposes of sections 3304,  
24 5333, and 5753 of title 5, United States Code, the Com-  
25 mandant may—

1           (1) designate any category of acquisition posi-  
2           tions within the Coast Guard as shortage category  
3           positions; and

4           (2) use the authorities in such sections to re-  
5           cruit and appoint highly qualified persons directly to  
6           positions so designated.

7           (b) LIMITATION.—The Commandant may not ap-  
8           point a person to a position of employment under this sub-  
9           section after September 30, 2012.





Union Calendar No. 117

11<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 1665**

[Report No. 111-215]

**A BILL**

To structure Coast Guard acquisition processes and policies, and for other purposes.

JULY 20, 2009

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed